



## NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

### National Endowment for the Humanities

#### Civil Penalty Adjustments for 2022

**AGENCY:** National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

**ACTION:** Notice of civil penalty adjustments for 2022.

**SUMMARY:** The National Endowment for the Humanities is giving notice of the adjusted maximum and minimum civil monetary penalties that it may impose, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, for violations of its New Restrictions on Lobbying and Program Fraud Civil Remedies Act regulations. The updated penalty amounts are adjusted for inflation and are effective from January 15, 2022, through January 14, 2023.

**DATES:** The updated civil penalties in this notice are applicable to penalties assessed on or after January 15, 2022, if the associated violations occurred after November 2, 2015.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Voyatzis, Deputy General Counsel, Office of the General Counsel, National Endowment for the Humanities, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606-8322; [gencounsel@neh.gov](mailto:gencounsel@neh.gov).

#### SUPPLEMENTARY INFORMATION:

##### 1. Background

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the Inflation Adjustment Act),<sup>1</sup> directs each Executive agency to make an annual inflation adjustment for each civil monetary penalty provided by law within the jurisdiction of the agency, and to publish notice of each such adjustment in the Federal Register. An agency adjusts a civil monetary penalty by

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<sup>1</sup> 28 U.S.C. 2461 note.

increasing the maximum amount of such penalty (or the range of minimum and maximum amounts, as applicable) by the percentage by which the Consumer Price Index for All Urban Consumers (CPI-U) for the month of October preceding the date of adjustment (in this case, October 2021) exceeds the CPI-U for the October one year prior to the October immediately preceding the date of the adjustment (in this case, October 2020), then rounding each amount to the nearest dollar.

The National Endowment for the Humanities (NEH) administers two civil monetary penalties subject to adjustment pursuant to the Inflation Adjustment Act: a civil monetary penalty that NEH may impose for violation of its New Restrictions on Lobbying regulation (the Lobbying Civil Monetary Penalty)<sup>2</sup> and a civil monetary penalty that NEH may impose under its Program Fraud Civil Remedies Act Regulations (the PFCRA Civil Monetary Penalty).<sup>3</sup> Each regulation provides for adjustment of its respective civil monetary penalty by notice in the Federal Register.<sup>4</sup>

## **2. 2022 Adjustments for Inflation**

The CPI-U for October 2021 was 276.589, and the CPI-U for October 2020 was 260.388. Between October 2020 and October 2021, the CPI-U increased by 6.222 percent.<sup>5</sup> Therefore, NEH will adjust each civil monetary penalty amount by multiplying it by 1.06222 and rounding to the nearest dollar.

### **A. 2022 Adjustment to Lobbying Civil Monetary Penalty**

For 2021, the Lobbying Civil Monetary Penalty had a minimum amount of \$20,731 and a maximum amount of \$207,314.<sup>6</sup> Therefore, the adjusted minimum Lobbying Civil Monetary

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<sup>2</sup> 45 CFR 1168.400(a), (b), (e).

<sup>3</sup> 45 CFR 1174.3(a), (b).

<sup>4</sup> 45 CFR 1168.400(g), 1174.3(f).

<sup>5</sup> OMB Memorandum M-22-07 (December 15, 2021).

<sup>6</sup> Table 1 details the annual adjustments to the Lobbying Civil Monetary Penalty for years 2016–2022. NEH made the adjustments for years 2016–2020 when it amended its New Restrictions on Lobbying regulation on April 21, 2020. 85 FR 22025.

Penalty for 2022 is \$22,021 (\$20,731 multiplied by 1.06222) and the adjusted maximum Lobbying Civil Monetary Penalty for 2022 is \$220,213 (\$207,314 multiplied by 1.06222).

Thus, the Lobbying Civil Monetary Penalty, following the 2022 adjustment, has a minimum amount of \$22,021 and a maximum amount of \$220,213.

Table 1—Annual Adjustments to Lobbying Civil Monetary Penalty, 2016–2022

<b>Year</b>	<b>Baseline Penalty Range</b>	<b>Applicable Multiplier Based on Percent Increase in CPI-U</b>	<b>New Baseline Penalty Range</b>
2016	\$10,000 – \$100,000	1.89361 <sup>7</sup>	\$18,936 – \$189,361
2017	\$18,936 – \$189,361	1.01636 <sup>8</sup>	\$19,246 – \$192,459
2018	\$19,246 – \$192,459	1.02041 <sup>9</sup>	\$19,639 – \$196,387
2019	\$19,639 – \$196,387	1.02522 <sup>10</sup>	\$20,134 – \$201,340
2020	\$20,134 – \$201,340	1.01764 <sup>11</sup>	\$20,489 – \$204,892
2021	\$20,489 – \$204,892	1.01182 <sup>12</sup>	\$20,731 – \$207,314
2022	\$20,731 – \$207,314	1.06222 <sup>13</sup>	\$22,021 – \$220,213

## B. 2022 Adjustment to PFCRA Civil Monetary Penalty

For 2021, the PFCRA Civil Monetary Penalty had a maximum amount of \$11,803.<sup>14</sup>

Therefore, the new, post-adjustment minimum penalty for 2022 under NEH’s PFCRA regulation is \$12,537 (\$11,803 multiplied by 1.06222).

Table 2—Annual Adjustments to PFCRA Civil Monetary Penalties, 2016–2022

<sup>7</sup> OMB Memorandum M-16-06 (February 24, 2016).

<sup>8</sup> OMB Memorandum M-17-11 (December 16, 2016).

<sup>9</sup> OMB Memorandum M-18-03 (December 15, 2017).

<sup>10</sup> OMB Memorandum M-19-04 (December 14, 2018).

<sup>11</sup> OMB Memorandum M-20-05 (December 16, 2019).

<sup>12</sup> OMB Memorandum M-21-10 (December 23, 2020).

<sup>13</sup> OMB Memorandum M-22-07 (December 15, 2021).

<sup>14</sup> Table 2 details the annual adjustments to PFCRA Civil Monetary Penalties for years 2016–2022. NEH made the adjustments for 2016–2021 when it adopted its Program Fraud Civil Monetary Penalties Act Regulations. 86 FR 44626.

<b>Year</b>	<b>Baseline Maximum Penalty</b>	<b>Applicable Multiplier Based on Percent Increase in CPI-U</b>	<b>New Baseline Maximum Penalty</b>
2016	\$5,000	2.15628 <sup>15</sup>	\$10,781
2017	\$10,781	1.01636 <sup>16</sup>	\$10,957
2018	\$10,957	1.02041 <sup>17</sup>	\$11,181
2019	\$11,181	1.02522 <sup>18</sup>	\$11,463
2020	\$11,463	1.01764 <sup>19</sup>	\$11,665
2021	\$11,665	1.01182 <sup>20</sup>	\$11,803
2021	\$11,803	1.06222 <sup>21</sup>	\$12,537

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<sup>15</sup> OMB Memorandum M-16-06 (February 24, 2016).

<sup>16</sup> OMB Memorandum M-17-11 (December 16, 2016).

<sup>17</sup> OMB Memorandum M-18-03 (December 15, 2017).

<sup>18</sup> OMB Memorandum M-19-04 (December 14, 2018).

<sup>19</sup> OMB Memorandum M-20-05 (December 16, 2019).

<sup>20</sup> OMB Memorandum M-21-10 (December 23, 2020).

<sup>21</sup> OMB Memorandum M-22-07 (December 15, 2021).